

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE:

NUTELLA MARKETING AND
SALES PRACTICES LITIGATION

Case No. 11-1086

ORDER

THIS MATTER having been opened to the Court on a Motion for Order To Show Cause by Objectors Agatha Bochenek, Edward Hegele, and Brandon Goodman (collectively, the “Bochenek Objectors”), through their counsel Christopher V. Langone, Esq., for a determination as to why the Court’s entry of settlement on July 31, 2012 should not be immediately implemented except as to the issue of attorney fees and costs; Plaintiffs, through Class Counsel James E. Cecchi, Esq., and Defendant Ferrero U.S.A., Inc. (“Defendant”), through its counsel, Tonia Ouellette Klausner, oppose the motion; it appearing that the Bochenek Objectors seek immediate disbursement of the settlement funds, notwithstanding any pending appeals to the entry of settlement; it appearing that the basis for the Bochenek Objectors’ motion is paragraph 55 of the Settlement Agreement, which provides that “attorney’s fees, costs, and expenses” are to be considered separately from the “fairness, reasonableness, and adequacy of the Settlement;” it further appearing that the Settlement Agreement also provides that no disbursement of the settlement funds can occur until after all appeals have been resolved, see Settlement Agreement, ¶¶ L, 43, 48; it appearing that there are two pending appeals before the Third Circuit regarding this Court’s entry of settlement, see Dkt. Nos. 105 & 107; it appearing that, regardless of the Bochenek Objectors’ positions regarding the appropriateness of the settlement or the issue of attorney’s fees and costs, there are other parties appealing the settlement; therefore, in light of

the terms of the Settlement Agreement, immediate distribution of the settlement funds is not proper; this matter being considered pursuant to Fed. R. Civ. P. 78; for the reasons stated herein, and for good cause shown;

IT IS on this 6th day of June, 2013

ORDERED the Bochenek Objectors' Motion for Order to Show Cause is DENIED.

/s/ Freda L. Wolfson
Honorable Freda L. Wolfson
United States District Judge